

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
TRUSTEES OF THE LOCAL 854  
PENSION FUND, *et al.*

Plaintiffs,

**ORDER**

-against-

**23-cv-1160 (JHR) (JW)**

BARRETT, *et al.*

Defendants.

-----X  
**JENNIFER E. WILLIS, United States Magistrate Judge:**

This matter has been referred for settlement. Dkt. No. 53.

At a previous discovery conference, the Parties indicated a possible interest in a settlement conference. If the Parties are indeed interested in a settlement conference, they should contact Courtroom Deputy Christopher Davis via email **by February 9<sup>th</sup>** at [WillisNYSDChambers@nysd.uscourts.gov](mailto:WillisNYSDChambers@nysd.uscourts.gov) to provide three mutually agreeable dates in March, April, and May. Any conference will be held in person at Courtroom 228, 40 Foley Square, New York, New York. Should the Parties not wish to schedule a settlement conference at this time, they should inform the Court via email by the same deadline.

Parties must attend in person with their counsel. Corporate Parties must send the person with decision-making authority to settle the matter to the conference. The Parties **are required** to prepare pre-conference submissions in accordance with Judge Willis's [Standing Order for All Cases Referred for Settlement](#). These letters must be submitted **five business days prior to the date of the conference**. See § 3 of the Standing Order, ("no later than 5 business days before the conference, counsel for each party must send the Court by email a letter, marked "Confidential Material for Use Only at Settlement Conference," which should not be sent to the

other parties. The letter should be sent to WillisNYSDChambers@nysd.uscourts.gov. This *ex parte* letter must not exceed 3 pages...The letter should include, at a minimum, the following: (a) the history of settlement negotiations, if any, including any prior offers or demands; (b) your evaluation of the settlement value of the case and the rationale for it; (c) any case law authority in support of your settlement position; and (d) any other facts that would be helpful to the Court in preparation for the conference.”).

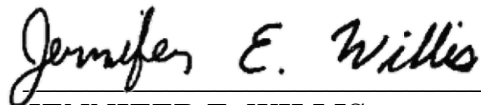
**The Parties are also required to jointly fill out the attached form** and submit it via email at least five business days prior to the conference.

Moreover, should either Party wish to discuss a possible declaration of bankruptcy, a limited ability to pay an award, or lack of access to cash to fund a settlement, the Parties are strongly encouraged to discuss such issues with opposing counsel prior to the settlement conference and to provide documents in their confidential *ex parte* letters that speak to their financial condition.

Finally, **this Order does not adjust any of the other deadlines in the case.**

SO ORDERED.

DATED: New York, New York  
January 26, 2024

  
JENNIFER E. WILLIS  
United States Magistrate Judge

# SETTLEMENT CONFERENCE FORM

This form should be completed jointly by the Parties and emailed to [WillisNYSDChambers@nysd.uscourts.gov](mailto:WillisNYSDChambers@nysd.uscourts.gov) at least five business days prior to the conference. The answers to this form **will be kept confidential**.

Please cite to the relevant docket entry where appropriate.

1. Has a deadline for fact discovery been set in this case? If so, is discovery closed?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, the discovery deadline is/was\_\_\_\_\_

2. Is there a deadline for expert discovery?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, the expert discovery deadline is/was\_\_\_\_\_

3. Is either Party waiting to receive records (medical records, payroll records, expert reports, etc.) important to its case?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, what are those records?\_\_\_\_\_

Is the Party still prepared to settle even without receipt of those documents?

\_\_\_\_\_

4. Has a Motion to Dismiss or Motion on the Pleadings Been Filed?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, did the District Judge rule on the Motion to Dismiss?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, please list the surviving claims below:

\_\_\_\_\_

5. Has a Motion for Summary Judgment Been Filed?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, did the District Judge rule on the Motion?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, what did the District Judge rule?

Granted\_\_\_\_\_ Denied\_\_\_\_\_ Granted in part \_\_\_\_\_

**6. Are attorney's fees part of the damages calculation? If so, to date, what are the total attorney fees accumulated in the case?**

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, \$\_\_\_\_\_

**7. What are the estimated attorney fees for each side for the next stages of the litigation?**

Plaintiff \$\_\_\_\_\_ Prefer Not to answer\_\_\_\_\_

Defendant\$\_\_\_\_\_ Prefer Not to answer\_\_\_\_\_

**8. Are there any financial constraints affecting the settlement discussions the Court should be aware of?**

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, what are those financial constraints?\_\_\_\_\_

**9. What was Plaintiff's last best offer? When was this offer made?**

\$\_\_\_\_\_

Date of Offer:\_\_\_\_\_

**10.What was Defendant's last best offer? When was this offer made?**

\$\_\_\_\_\_

Date of Offer:\_\_\_\_\_

**11. Are there any other impediments to settlement that the Court should be aware of?**

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, please describe.\_\_\_\_\_